

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

PATRICIA BELL WATKINS,

Petitioner,

v.

STATE OF WASHINGTON

Respondent.

Case No. C06-5141FDB

ORDER TO AMEND  
THE PETITION

This habeas corpus petition has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636 (b)(1)(B) and Local Magistrates' Rules MJR 3 and MJR 4. Petitioner seeks federal habeas corpus relief pursuant to 28 U.S.C. § 2254. (Dkt. # 1 and 2). Petitioner names only the State of Washington as a Respondent. 28 U.S.C. § 2243 indicates that writs are to be directed "to the person having custody of the person detained". This person typically is the superintendent of the facility in which the petitioner is incarcerated. Failure to name the petitioner's custodian deprives federal courts of personal jurisdiction. Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994).

Petitioner has listed a P.O. Box as a return address. (Docket sheet). It is possible petitioner

ORDER

1 is not in custody. Under 28 U.S.C. § 2254, the district court may entertain an application for a writ  
2 of habeas corpus only from a person in custody pursuant to the judgment of a state court. The  
3 custody requirement of the habeas corpus statute is designed to preserve the writ as a remedy for  
4 severe restraints on individual liberty. Hensley v. Municipal Court, San Jose Milpitas Judicial  
5 District, 411 U.S. 345, 351 (1973). The person must be in custody pursuant to the conviction or  
6 sentence under attack at the time the petition is filed. Maleng v. Cook, 490 U.S. 488, 490-91  
7 (1989); Carafas v. LaVallee, 391 U.S. 234, 238 (1968).

8 Finally, petitioner has not provided service copies of the petition. The court needs two  
9 copies of the petition for service. Petitioner is ordered to file an amended petition or a motion to  
10 change the case caption and petitioner must name the superintendent of the facility where she is  
11 incarcerated. The new petition or motion must be filed on or before **May 19<sup>th</sup>, 2006** or the court will  
12 recommend dismissal of this petition on jurisdictional grounds.

13 The clerk is ordered to send copies of this order to the petitioner and to note this matter for  
14 the courts **May 19<sup>th</sup>, 2006** calendar.

15  
16 DATED this 21<sup>st</sup> day of April, 2006.

17  
18 /S/ J. Kelley Arnold  
19 J. Kelley Arnold  
20 United States Magistrate Judge  
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28 ORDER